

**Effective 5/10/2016**

**77-32-201 Definitions.**

For the purposes of this chapter:

- (1) "Board" means the Indigent Defense Funds Board created in Section 77-32-401.
- (2) "Commission" means the Utah Indigent Defense Commission created in Section 77-32-801.
- (3) "Compelling reason" shall include one or more of the following circumstances relating to the contracting attorney:
  - (a) a conflict of interest;
  - (b) the contracting attorney does not have sufficient expertise to provide an effective defense of the indigent; or
  - (c) the legal defense is insufficient or lacks expertise to provide a complete defense.
- (4) "Defense resources" means a competent investigator, expert witness, scientific or medical testing, or other appropriate means necessary, for an effective defense of an indigent, but does not include legal counsel.
- (5) "Defense services provider" means a legal aid association, legal defender's office, regional legal defense association, law firm, attorney, or attorneys contracting with a county or municipality to provide legal defense and includes any combination of counties or municipalities to provide regional indigent criminal defense services.
- (6) "Effective representation" means legal representation consistent with the Sixth Amendment to the United States Constitution, and Utah Constitution, Article I, Section 12, as interpreted through federal and Utah state appellate courts.
- (7) "Indigent" means a person qualifying as an indigent under indigency standards established in Part 3, Counsel for Indigents.
- (8) "Indigent criminal defense services" means the provision of a defense services provider and defense resources to a defendant who is:
  - (a) being prosecuted or sentenced for a crime for which the defendant may be incarcerated upon conviction, beginning with the defendant's initial appearance in court to answer to the criminal charge; and
  - (b) determined to be indigent under Section 77-32-202.
- (9) "Indigent criminal defense system" means:
  - (a) indigent criminal defense services provided by local units of government, including counties, cities, and towns funded by state and local government; or
  - (b) indigent criminal defense services provided by regional legal defense funded by state and local government.
- (10) "Legal aid association" means a nonprofit defense association or society that provides legal defense for indigent defendants.
- (11) "Legal defender's office" means a division of county government created and authorized by the county legislative body to provide legal representation in criminal matters to indigent defendants.
- (12) "Legal defense" means to:
  - (a) provide defense counsel for each indigent who faces the potential deprivation of the indigent's liberty;
  - (b) afford timely representation by defense counsel;
  - (c) provide the defense resources necessary for a complete defense;
  - (d) assure undivided loyalty of defense counsel to the client;
  - (e) provide a first appeal of right; and

- (f) prosecute other remedies before or after a conviction, considered by defense counsel to be in the interest of justice except for other and subsequent discretionary appeals or discretionary writ proceedings.
- (13) "Local funding" includes funding by an indigent criminal defense system for defense services. Local funding may be adjusted annually to reflect population growth and inflation for consideration of state funding for indigent criminal defense resources and critical need indigent criminal defense providers.
- (14) "Participating county" means a county that has complied with the provisions of this chapter for participation in the Indigent Aggravated Murder Defense Trust Fund as provided in Sections 77-32-602 and 77-32-603 or the Indigent Felony Defense Trust Fund as provided in Sections 77-32-702 and 77-32-703.
- (15) "Regional legal defense" means a defense services provider which provides legal defense to any combination of counties or municipalities through an interlocal cooperation agreement pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, and Subsection 77-32-306(3).
- (16) "Serious offense" means a felony or capital felony.
- (17) "State funding" means funding by the state for:
  - (a) the establishment of a statewide indigent criminal defense data collection system;
  - (b) defense resources; and
  - (c) critical need defense services providers.
- (18) "Shared state and local funding" means the recognition of the state's constitutional responsibility for the provision of indigent defense services and the collaborative assistance by indigent criminal defense systems to fairly provide effective representation in the state, consistent with the safeguards of the United States Constitution, the Utah Constitution, and this chapter.

Amended by Chapter 177, 2016 General Session